IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 23913 of 2006(V)

PETITIONERS:

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1. GOPALAKRISHNAN NAIR, MANGALATHU PUTHENVEEDU, PAYYANAMON P.O., KONNI, PATHANAMTHITTA.

2. JOLSON K.MATHAI, KAKKUNNATHU HOUSE, PAYYANAMON P.O, KONNI, PATHANAMTHITTA.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS:

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1. THE PLAKKATTU GRANITES PVT.LTD REPRESENTED BY ITS MANAGING DIRECTOR, SHRI.THOMAS JACOB, PAYYANAMON, KONNI, PATHANAMTHITTA.

2. THE KONNI GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, KONNI, PATHANAMTHITTA.

3. SANTHOSH P.MAMMEN, MEMBER, WARD.NO.VII, KONNI GRAMA PANCHAYATH, KONNI, PATHANAMTHITTA.

4. THE KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS SECRETARY, PLAMOOD JN, TRIVANDRUM.

5. THE DISTRICT COLLECTOR & DISTRICT
MAGISTRATE, PATHANAMTHITTA.

6. THE DISTRICT SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

7. THE DISTRICT MEDICAL OFFICER,
PATHANAMTHITTA.

8. THE CHIEF CONTROLLER OF EXPLOSIVES,
140, RUKMINI LAKSHMIPATHI SALAI,
EGMORE, CHENNAI.

R3 BY ADV. SRI.AJAY THOMAS

R1 BY ADV. SRI.BECHU KURIAN THOMAS
R8 SRI.P.R.RAMACHANDRA MENON, ADDL.CGSC
R2 BY SRI.PHILIP J.VETTICKATTU
SMT.LAKSHMI.V.
R4 BYSRI.M.K.CHANDRA MOHANDAS,SC,POLL.C.BOAR
R5, 6 & 7 BY SR. GOVT. PLEADER SRI. K.J. MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No. 23913 of 2006

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Dated this the 14th day of August, 2007

JUDGMENT

Case of the petitioners in brief is as follows:

Petitioners are residents of Ward No.VII of the respondent Panchayat. They approached this court feeling aggrieved by the operation of a quarry and crusher of the first respondent. The Sub Committee of the Panchayat after local inspection has reported that the operation of the quarry in the present form causes serious threats to the lives and properties of the local people and it is also reported that there were 30 residential houses within the radius of 250 meters from the quarry. Damages were also caused to the residential buildings of the local people. But even then licenses were issued. It is supported by the report of the DMO, whose report points to pollution and he has suggested remedial measures. But the first respondent has not carried out remedial measures. It is also pointed out that the District Collector and the Village Officer have issued separate orders, but they are not enforcing the same. There is prohibition to use jack hammers and Class 3 type explosives, but the first respondent is exhaustively using

the same. The public road is close to the quarry and there is encroachment to it and caused serious damage to it, it is contended. Petitioner has approached this court seeking a direction to enforce Exts.P8, P9 and P10. Further direction is sought to take action and issue orders under Section 233A of the Kerala Panchayat Raj Act based on Ext.P5 report of the Sub Committee and to issue a writ of mandamus directing the seventh respondent to enforce Ext.P6 and to direct the second respondent to stop functioning of the quarry operated by the first respondent in its present form.

2. I heard learned counsel for the parties. A statement has been filed on behalf of the Pollution Control Board and additional affidavit has also been filed by the Pollution Control Board. In the latest affidavit it is inter alia stated as follows:

> " I have inspected the unit on 24.7.2007. The unit was working at the time of inspection. During the inspection it is observed that
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> i) The unit was operating with the consented capacity of 250HP.
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> ii) Internal roads were tarred.
>
> Iii) Provided adequate water storage facilities and

water sprinkling facilities.

iv) Enclosures are provided as per norms.

In general they have improved the pollution control measures considerably and air pollution was not experienced. Heavy rain also helped to bring down the dust pollution problems.

Further, they have submitted additional proposal to fully enclose the whole units in a single building as additional control measures and the work is in progress. Once this is completed, permanent solution to the pollution problems can be achieved. They have submitted application for consent to operate the additional crushers and the application is being processed.

The petitioners were also contacted and they informed that they are mainly affected by the operation of the quarry of M/s. Plakkattu Granites (P) Ltd. Uncontrolled blasting results in rock fragments reaching far distance and causing accidents to the residents of the locality. It is learned that they are blasting more than 30 bore holes simultaneously with electric detonators. As there is no regulations regarding simultaneous blasting, the Board cannot insist the unit to limit the number of explosions.

It is submitted that if the number of simultaneous

blasting are more, shakes and vibrations will also be more.

For a permanent solution, simultaneous blasting with electrical detonators shall be limited to a maximum of 5 bore holes at a time and individual bore hole depth may be limited to a maximum of 1.5 m."

3. Learned counsel for the petitioners Sri. V.K.Sunil submits that the petitioners have no objection to the running of the crusher at present. In regard to the running of the quarry, learned counsel for the petitioners points out the situation as contained in paragraphs 5, 6 and 7 of the affidavit of the Pollution Control Board. He submits that the blasting may be limited to five bore holes. Learned counsel for the first respondent points out that in the first place there is no legal basis for limiting the number of bore holes. Having regard to the report of the Pollution Control Board and the fact that uncontrolled blasting will cause accidents and that the first respondent is blasting more than 30 bore holes simultaneously with electric detonators, which is of course denied on behalf of the first respondent, I feel that the number of bore holes that can be blasted should be limited to ten at a time.

In such circumstances, the writ petition is disposed of directing that the number of bore holes blasting will be limited by the first respondent at a maximum of ten with the depth being limited to a maximum of 1.5 meters at a time. Both the fourth respondent and the second respondent will effectively monitor the observance of these conditions by the first respondent. Of course this will be over and above the terms and conditions, subject to which license has been issued by the Panchayat and observance of the conditions by the Pollution Control Board. In case of any violation of the terms and conditions, subject to which license has been granted or consent has been granted by the Pollution Control Board, the concerned authorities will take effective and prompt steps in accordance with law in the matter.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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